

## **REMARKS**

### **Claims**

The final Office Action dated September 7, 2005 rejected claims 1-26 based on U.S. Publication No. 2003/0172116 A1 to Curry *et al.* in view of U.S. Publication 2004/0172451 A1 to Biggs *et al.* In view of the following remarks, reconsideration and prompt early allowance are respectfully requested.

### **Rejections under 35 U.S.C. § 103(a)**

Claims 1-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Curry *et al.* in view of Biggs *et al.* This rejection is respectfully traversed.

Applicant has submitted Exhibits A-D along with a Declaration under 37 C.F.R. § 1.131 to overcome the Office Action's rejection under 35 U.S.C. § 103(a). The applicant swears behind the filing date of the Biggs reference, and can attest that the date of conception of the present invention was prior to the filing date of the Biggs reference. It should be noted that "[an] accompanying exhibit need not support all claimed limitations, provided that any missing limitation is supported by the declaration itself." (See MPEP § 715.07).

Exhibit A demonstrates evidence to support a date of conception prior to the filing date of the Biggs reference. An actual date of conception is not provided with Exhibit A, however, an actual date of conception is not required:

"When alleging that conception or a reduction to practice occurred prior to the effective date of the reference, the dates in the oath or declaration may be actual dates or, if the applicant or patent owner does not desire to disclose his or her

actual dates, he or she may merely allege that the acts referred to occurred prior to a specified date.” (See MPEP § 715.07).

Exhibits B-D are provided to show due diligence in the completion of the invention from a time prior to the filing date of the Biggs reference continuously up to the date of an actual reduction to practice of the invention.

The Office Action, therefore, can no longer maintain a valid rejection under 35 U.S.C. § 103(a) as the Biggs reference does not qualify as prior art. As explained above, Curry and Biggs in combination fail to present applicable prior art in order to maintain a valid rejection upon claims 1-26. Accordingly, withdrawal of the rejection of these claims under 35 U.S.C. §103 is respectfully requested.

**CONCLUSION**

Applicant has duly considered the rejections of claims 1-26 in the Office Action, and responded by the foregoing amendments and remarks. Applicant has thereby even further distinguished the pending claims from the art of record. Applicant therefore respectfully requests timely entry of this Amendment and passing of this application to issue. Should however any issues remain before issuing this application, the Examiner is urged to contact the undersigned to resolve the same. The Commissioner is hereby authorized to charge any additional amount required, or credit any overpayment, to Deposit Account No. 19-2112 referencing Attorney Docket No. MFCP.108796.

Respectfully submitted,



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